

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION FOR AUTHORIZATION
AND APPROVAL OF A PROJECT UNDER CHAPTER 121A OF THE
GENERAL LAWS OF MASSACHUSETTS (TER. ED.), AS AMENDED
AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED
AND FOR CONSENT TO THE FORMATION PURSUANT TO SAID
CHAPTER 121A OF AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP
UNDER THE NAME OF THE
BLACKSTONE COMPANY
FOR THE PURPOSE OF UNDERTAKING AND CARRYING OUT THE PROJECT

A. THE HEARING

A public hearing was held at 1:30 P.M., on August 27, 1975, in the offices of the Boston Redevelopment Authority, hereinafter called the "Authority," at the New City Hall, Room 921, Boston, Massachusetts, by the Authority on an Application, hereinafter called the "Application," filed by Walter K. Winchester and John R. Gallagher III, the General Partners, hereinafter called the "Applicants," for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of Massachusetts (Ter. Ed.), as amended, and Chapter 652 of the Acts of 1960, as amended, hereinafter called the "Project," and for consent to the formation of a Chapter 121A Limited Partnership under the name of the Blackstone Company, for the purpose of undertaking and carrying out the Project, due notice of said hearing having been given previously by publication on August 12, 1975 and August 19, 1975, in the "Boston Herald American," a daily newspaper of general circulation published in Boston, and by mailing appropriate notices, postage prepaid, in accordance with the provisions of Rule 8 of the Rules and Regulations of the Authority for securing the approval of Chapter 121A Projects, hereinafter called the "Regulations," and Section 13 of Chapter 652 of the Acts of 1960, as amended.

Robert L. Farrell, Chairman of the Authority, and James G. Colbert, Joseph J. Walsh, Paul J. Burns, and James K. Flaherty, members of the Authority, were present throughout the hearing.

B. THE PROJECT

A limited partnership which will exist pursuant to Chapter 121A of the General Laws of Massachusetts (Ter. Ed.), as amended, will operate the Project which is to be constructed on the Blackstone School Site in the West End of Boston. A small portion of the Project is located within the West End Land Assembly and Redevelopment Project, and owned presently by the Authority. The larger portion of the Project was specifically excluded from the West End Land Assembly and Redevelopment Project by paragraph A(a) of the Plan relating thereto. The Project will be financed by the Massachusetts Housing Finance Agency, hereinafter called the "MHFA," or possibly other institutional investors.

The Applicants propose the following redevelopment activity as part of the Project:

1. The demolition of the building currently on the Site.
2. The construction of a fourteen (14) story tower which will contain one hundred and fifty-one (151) one-bedroom units, and twenty-five (25) two-bedroom units, all of which will be for elderly housing, and approximately fourteen thousand (14,000) square feet of commercial space on the first two floors.
3. The provision of eighteen (18) spaces for automobiles, five (5) of which spaces will be enclosed.

The makeup and design of the Project are fully shown on the Plans filed with the Application as Exhibit G.

C. AUTHORITY ACTION

In passing on the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing, the arguments and statements made at the hearing, and other documentation and evidence in the Authority's possession. The members of the Authority have also viewed the Project Area.

The Project as defined in the Application constitutes a "Project" within the meaning of Section 1 of Chapter 121A of the General Laws, providing, as it does for the construction, operation, and maintenance in a blighted open, decadent, or substandard area of decent, safe and sanitary residential buildings and appurtenant facilities, as described above.

D. PROJECT AREA – BLIGHTED OPEN AND DECADENT AREA

The Authority hereby finds that the Project area is a "blighted open area" within the meaning of Section 1 of Chapter 121A of the General Laws because it is detrimental to the safety, health, morals, welfare and sound growth of the West End Community, and unduly costly to develop through the ordinary operations of private enterprise by reason of:

1. the existence of unsuitable subsoil conditions which will require the sinking of piles to a depth of well over fifty (50) feet;
2. the obsolete and inappropriate platting of the area as is evidenced by the irregular shape of the Project site;
3. the deterioration of the Blackstone School building which is presently on the site and which bears marked evidence of vandalism;
4. the substantial changes in the business and economic conditions in the West End Area of the City of Boston which changes have caused the anticipated use of the Blackstone School for school purposes to be abandoned;
5. the abandonment or cessation of the use of the Blackstone School by the City of Boston which has resulted in the physical deterioration of the building;
6. the existence of the Blackstone School building which must be razed in order to allow any further meaningful and beneficial future development on the site;
7. the combination of all of the conditions listed above which are not, in fact, being remedied by the ordinary operation of private enterprise, and which are of such a character that they are in essence detrimental to the safety, health, morals, welfare and sound growth of the West End Area and the City of Boston.

The Authority hereby also finds that the Project area is a "decadent area" within the meaning of Section 1 of Chapter 121A of the General Laws because it is detrimental to the safety, health, morals, welfare and sound growth of the West End Area of the City of Boston by reason of:

1. the existence of the Blackstone School building which is infested with rats, the presence of which condition is not only intolerable and psychologically debilitating, but which has caused abutting owners the additional burden of having to expend funds for the implementation of rat-proofing measures in order to protect their own property.
2. the substantial change in the business and economic characteristics of the West End Area over the past two decades;

3. the irregular lot size and shape of the Project site which will make it improbable that the area will be developed by any ordinary operation of private enterprise;
4. the combination of all of the above listed conditions.

The Authority is also cognizant of the fact that the implementation of the West End Land Assembly and Redevelopment Project during the past two decades has caused the physical relocation of many longtime West End residents who have been assured of places to live in their old community. This Project specifically responds to that need and assurance by providing housing for many of those who were forced to leave their homes during this period.

As has been noted above, the conditions which are causing the blight and deterioration are not being remedied by the ordinary means of private or public enterprise. These conditions warrant the carrying out of the Project in accordance with Chapter 121A of the General Laws and the proposed construction, operation, and maintenance of decent, safe, and sanitary housing and commercial facilities proposed by the Applicants in their Application constitutes a "Project" within the meaning of that law. The purpose of Chapter 121A and Chapter 652 of the Acts of 1960 will be met by this Project. The demand for such housing for elderly individuals and elderly couples at rent levels below those which the conventional operations of the real estate market produce, is, as a matter of common knowledge, intense. Construction of the units and facilities proposed for the Project Area will serve to alleviate this intense demand, and will, in addition, encourage the conservation and improvement of the area.

The Project will provide substantial financial return to the City of Boston, and the Authority's approval will return to the tax roles of the City of Boston a parcel of land which has yielded no tax revenue since it was purchased by the City of Boston during the early nineteen hundreds, and which has provided no beneficial service to the residents of the City of Boston since the abandonment of its use as a school well over twenty years ago. Exhibit "6A Contract" of the Application sets forth an example of the type of Agreement which may be entered into between the City of Boston and the Applicants. This Agreement provides in substance that there be paid to the City of Boston in lieu of real estate taxes in each of the forty (40) calendar years after approval of the Project, an amount over the excise payable under Chapter 121A, Section 10, of the General Laws. Exhibit "6A Contract" is attached only for illustrative purposes and the approval of this Report and Decision does not bind the City nor the Applicants to the terms and conditions as set forth therein.

E. COST OF THE PROJECT

In the opinion of the Authority, the cost of the Project has been realistically estimated in the Application and the Project is feasible. The estimated construction cost of the Project is \$5,760,000.00. The MHFA has issued a commitment to provide permanent financing in the amount of \$7,017,824.00, which amount is ninety (90) per centum of the total cost of the Project as permitted by Section 7 of Chapter 121A. The remaining equity financing for the Project will be raised through the private placement of the limited partnership interests in the Blackstone Company. The Application contains a form of the Partnership Agreement which illustrates in a general manner the organizational framework of the Partnership to be called the Blackstone Company. Experience with similar financing and organizational methods persuades the Authority that the financing program is realistic.

The feasibility of the Project is based upon the financial commitment made by the Applicants which requires them to provide the equity financing of the Project, the market established by the need for elderly housing in the area, the interest reduction proceeds available from the Department of Housing and Urban Development pursuant to Section 236 of the National Housing Act, and the mortgage financing to be made available by the MHFA, or possibly other institutional lenders, to finance the Project.

F. CONSISTENCY WITH THE MASTER PLAN

The Project does not conflict with the Master Plan for the City of Boston.

G. EFFECT OF THE PROJECT

The Project will not be, in any way, detrimental to the best interests of the public or to the City of Boston or to the public safety or convenience, nor will it be inconsistent with the most suitable development of the City. The Project will, in fact, forward the best interests of the City and will constitute a public use and benefit by eliminating blighted open, decadent conditions which currently exist in the area by removing a structure that is not conducive to the best interests of the area and of the City. The residential structure to be erected on the Project Area is efficiently designed, with ample light and air and appurtenant space, and will furnish attractive and most necessary living accommodations.

The carrying out of the Project will replace the present blighted conditions of the Project Area with suitable accommodations for elderly individuals and elderly couples, and economic as well as physical integration into the community will result from the availability of the housing. The Plans for the Project and its operation have been reviewed by the MHFA and the Authority's Design Review Staff and will be subject to further design review by the Authority.

The carrying out of the Project will not involve the destruction of existing structures occupied in whole or in part as dwellings.

The Project does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

The carrying out of the Project will require the granting of a permit for the erection, maintenance and use of a garage within five hundred (500) feet of one or more buildings occupied in whole or in part as a public or private school having more than fifty (50) pupils, or as a public or private hospital having more than twenty-five (25) beds, or as a church. The garage will include eighteen (18) spaces for automobiles, five (5) of which spaces will be enclosed. The garage is intended solely for the use of the elderly residents of the Project and will not be open to the public. The garage will therefore not be substantially detrimental to any such school, hospital or church, since it constitutes a minor and incidental use, and will be operated so as to prevent the emission of objectionable noise, fumes and odors, and will not interfere substantially with the flow of traffic on adjoining streets.

The Project does not involve the construction of units which constitute a single building under the Boston Building Code and Zoning Laws, and the carrying out of the Project will not require a declaration by the Authority with the approval of the Mayor of the City of Boston that such units constitute separate buildings for the purpose of Chapter 138 of the General Laws.

H. MINIMUM STANDARDS

The minimum standards for financing, construction, maintenance, and improvement of the Project as set forth in Exhibit C filed with and attached to the Application are hereby adopted and imposed as rules and regulations, in addition to those hereinafter adopted and imposed, and are applicable to this Project and for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws, and Chapter 652 of the Acts of 1960, as amended.

In addition to the minimum standards set forth in Exhibit C, the Authority hereby requires that the Applicant, prior to obtaining a building permit:

1. enter into a Regulatory Agreement with the Authority pursuant to the requirements of Chapter 121A, Section 18C, of the General Laws, and containing such other terms and conditions as the Authority may in its discretion deem necessary and appropriate;

2. submit to the Authority for its review and approval such Final Plans and Specifications for the Project as the Authority may require, and accept such changes and modifications thereto as the Authority may deem necessary and appropriate; and
3. adhere to such Design Review Controls and Requirements as the Authority may in its discretion impose.

I. ENVIRONMENTAL CONSIDERATIONS

In conformance with the provisions of Sections 61 and 62 of Chapter 30 of the General Laws, as inserted by Chapter 781 of the Acts of 1972, and the Regulations thereunder as adopted by the Authority on April 11, 1974, the Authority has made an environmental analysis evaluating the Project, which contains the following findings:

1. The Project will have virtually no effect on the site which it occupies, causing no land or soil erosion and no change in the ground water level;
2. The Project will have no effect on local vegetation and natural areas;
3. The Project will be compatible with the surrounding high density area. It will cast no significant shadows on neighboring buildings;
4. There will be no impact in terms of increasing the load on existing infrastructure facilities;
5. There will be minimal car ownership by those occupying the Project, therefore, there will be virtually no impact on the present amount of traffic in the area and there will be no substantial increase in the amount of air pollution generated;
6. The Project will not increase the noise levels in the surrounding environment;
7. The Project will have no effect on the quality of Boston's water supply, nor will it have any effect on the quality of the water of the Charles River;
8. The Project will require deviations from the State Building Code as noted below, but not in such manner as will cause damage to the environment;
9. The Project does not result in the generation of a significant amount of noise or dust, except during the construction period.

The Authority therefore concludes that the Project will cause only minimal damage to the environment, and that all feasible measures have been taken to avoid or minimize said impact. The Environmental Assessment of the Project has been completed by the Authority and the MHFA, and a joint report has been filed by the Authority and the MHFA with the Secretary of Environmental Affairs. The Authority hereby determines that the Project will not cause any significant damage to the environment as defined by Chapter 30, Section 61, of the General Laws, and finds that no further action need be taken in this regard.

J. DEVIATIONS

Exhibit B filed with and attached to the Application, and as subsequently amended by documentation filed with the Authority by a letter dated September 10, 1975, lists the Zoning Code Deviations, the State Building Code Deviations, and the the Architectural Barriers Board Deviations required for the Project's construction. For the reasons set forth in the Application and supporting documentation, including said Exhibit B, as amended, and in evidence presented at the hearing, and in this Report and Decision, the Authority hereby finds that each and every one of the permissions hereinafter granted is reasonably necessary for the carrying out of the total Project and may, subject to such conditions as are hereinafter set forth with respect thereto respectively, be granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances, and regulations, respectively; and the Authority is also satisfied by reliable and generally accepted tests, or by experience in other cities that the other design, construction materials, apparatus, equipment or methods specified in the Application and supporting documentation, including Exhibit B, and in the evidence presented at the hearing, will sufficiently satisfy the purposes for which it or they are to be used and the purposes of the applicable laws, codes, ordinances, or regulations, respectively.

Permission is hereby granted to deviate from the following sections of the Boston Zoning Code, the State Building Code, and the requirements of the Architectural Barriers Board as follows:

1. ZONING CODE DEVIATIONS

a. Uses:

Deviation from Article 8, Section 8-7, Use, Items 34, 39, 40, 41, 42, and 46 to allow business uses at the ground and second floors, such as food store, drug store, barber shops that are intended primarily for the convenience of the residents of the housing and the adjacent neighborhood, office uses and service establishments.

Deviation from Article 10, Section 10 - 1, Limitation of Area of Accessory Uses to Allow the use of more than 25% of required rear yard for tenant parking.

b. Dimensional Requirements

Deviation from prescribed Floor Area Ratio (FAR) of 3.0 – Article 13, Section 13–1, Table B, and Article 15, Section 15–1, Proposed FAR=169,500 s.f.+ 28,344 s.f. = 6.0.

Deviation from Usable Open Space per dwelling unit, Article 13, Section 13–1, Table B, and Article 17, Section 17–1. 100 s.f./apt. required – 17,600 s.f.; proposed = 8,845, (in addition there is 9,860 s.f. of interior tenant community space available for year round use).

Deviation from Side Yard Requirements of Article 13, Section 13–1, Table B, and Article 19. Actual side yards: South 0', North 19'.

Deviation from Front Yard Requirements of Article 13, Section 13–1, Table B, and 18. Actual front yard: 0'; required 15'.

Deviation from Offstreet Parking Provisions of Article 23. Required spaces = 0.6 x 176 apts = 106 cars for residential use and 16 required for commercial retail uses = total required of 122 cars. Actual spaces provided = 18.

Deviation from Setback of Parapet requirement of Article 13, Section 13–1, Table B, and Article 21. Actual setback: 0'; required = $(46 + 75)/6 = 20$.

Deviation from Section 21–1, 21–2, 21–3: per Article 13, Table B, the required front setback is 28 feet reduced by one-half on the width of Blossom Street (80 feet); that is, no front setback is required and the Project conforms. The required north side setback is 34 feet with the parapet no closer than 25.5 feet and the Project conforms. The required south side setback is 25.6 feet and the Project is providing only 2.67 feet. The required rear setback is 28.9 feet and the Project is providing only 17.8 feet. Therefor, deviations should be sought for parapet setbacks at the south side and at the rear lot line.

2. STATE BUILDING CODE DEVIATIONS

a. Section 213.1

The effect of this Section is to require a fire resistance rating of 3 hours through-

out the building because it is occupied by two uses. A deviation is requested to permit a fire rating of less than three hours in a building to be occupied by two uses.

b. Section 215.0

This section specifies fire resistance ratings for walls and floors by reference to Table 2-5 of the State Building Code. A deviation is requested to use non-rated, exterior infill wall which does not conform to the two hour fire resistance ratings of Table 2-5, but which has an estimated rating of one and one-half hours based upon an interior rating test. A deviation is requested from the two hour fire resistance rating requirement of Table 2-5 for floor construction. The proposed Spancrete floor system does not have a fire resistance rating.

c. Sections 417.0, 417.1, and 606.3

These sections interrelate to require a minimum of two approved means of access from roof areas used as gardens or places of assembly. A deviation is requested from the combined effect of the sections to permit construction of roof terrace to be used as a garden with only one means of egress.

d. Section 609.12

This section governs buildings in use group L-2, construction type 1A and 1B, and allows single exitways from dwelling units provided, among other requirements, that all public corridors are zoned with self closing fire doors. A deviation is requested to permit construction without the self closing fire doors in public corridors.

e. Section 740.21

This section establishes a maximum allowable load on compacted concrete piles of one hundred and twenty (120) tons. A deviation is requested to allow a load of one hundred and forty (140) tons.

f. Section 842.1

This section establishes control provisions for concrete materials, design, con-

struction, inspection and testing. A deviation is requested to permit construction with Spancrete floor and roof systems which do not conform to Reference Standard ACI-318-1971, Section 7-13 (requiring the temperature of shrinkage steel to be normal to the principal reinforcement in roof and floor slabs) and Section 11.1 (requiring minimum shear reinforcement in all prestressed flexural members).

g. Section 1132.2

This section requires all refuse chutes to be enclosed with masonry walls of not less than a two hour fire resistance rating. A deviation is requested to permit refuse chutes to enclosed with nonmasonry rather than masonry walls.

h. Section 1206.53

This section requires standpipes in every story equipped with a two and one-half (2½) inch and a one and one-half (1½) inch hose connection. A deviations is requested for a waiver of the requirement of the one and one-half (1½) connection.

i. Section 1206.6

This section requires that each story be equipped with a rack and cabinet in which to store not less than one hundred (100) feet of one and one-half (1½) inch hose. A waiver is requested of the requirement for the hose, rack, and cabinet.

j. Section 1207.4

This section requires a capacity of not less than one thousand (1000) gallons per minute when a building has two (2) six (6) inch standpipes supplied by an automatic fire pump. A deviation is requested to permit a pump capacity of not less than 750 gallons per minute.

k. Section 1212.2

This section requires that each fire area shall have at least one riser of adequate size to furnish all the heads in one story. A deviation is requested to permit a

two (2) riser cross-connect layout, each riser sized to supply one-half ($\frac{1}{2}$) of the floor area served.

3. GENERAL LAWS, CHAPTER 22, SECTION 13A DEVIATIONS

a. Paragraph 13.3

This paragraph requires an elevator cab with clear dimensions 48 inches wide by 54 inches deep. The provided cab will be 68 inches wide by 51 inches deep.

b. Paragraph 22.5

This paragraph requires that units for the handicapped be distributed proportionally. The units will not be proportionally allocated since there are no two-bedroom units for the handicapped.

MEMORANDUM

SEPTEMBER 25, 1975

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT T. KENNEY, DIRECTOR

SUBJECT: REPORT AND DECISION

CHAPTER 121A APPLICATION OF THE BLACKSTONE COMPANY

WEST END LAND ASSEMBLY AND REDEVELOPMENT PROJECT

PROJECT NO. UR MASSACHUSETTS 2-3 and

THE WEST END OF BOSTON

326
9/25

A public hearing was held by the Authority on August 27, 1975, on the above captioned Application. At that meeting the Board heard a presentation by the Applicants. There was no objection to the Application voiced at the public hearing and the matter was directed to the Chief General Counsel for a Report and Decision.

The 121A Application has been examined and found to contain sufficient evidence in support of the proposed Project to permit the Authority to proceed with the adoption of the attached Report and Decision approving the Project and consenting to the formation of the Limited Partnership.

As indicated by the Applicants at the hearing, and as stated in the Application, this proposal calls for the construction of a fourteen (14) story tower and shall include one hundred and fifty-one (151) one-bedroom units, and twenty-five (25) two-bedroom units, all of which will be for housing of the elderly, and approximately fourteen thousand (14,000) square feet of commercial space on the first two floors.

It is anticipated that approximately 90%, i.e. \$7,017,824.00, of the total financing cost will be advanced by the Massachusetts Housing Finance Agency.

It is therefore recommended that, pursuant to Chapter 121A of the General Laws, the Authority adopt the Report and Decision approving the Project and consenting to the formation of the Blackstone Company.

An appropriate vote follows:

VOTED: That the Document presented at this meeting entitled "Report and Decision of the Application of the Blackstone Company, for approval of a Redevelopment Project and Consent to the Formation of the Blackstone Company" be and hereby is approved and adopted. This approval is conditional upon the Applicants having a initial closing with the MHFA within forty-five (45) days from the date hereof.

